

Mr. Keith Schreiner, Associate Director, Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 (202-343-4646).

#### BACKGROUND

#### SUPPLEMENTARY INFORMATION:

The greenback cutthroat trout is currently classified as an endangered species. It was originally listed as endangered under the Endangered Species Conservation Act of 1969, and evidence on hand at that time indicated that it was endangered due to competition from hybridization with introduced species of trout and deterioration of its habitat. We now have evidence that the greenback cutthroat trout is no longer endangered as defined by the Endangered Species Act of 1973 and should be reclassified as Threatened.

Greenback cutthroat trout populations have been located or reintroduced in a number of waters within its former range in the headwaters of the South Platte and Arkansas River drainages, and efforts to eliminate introduced species of trout in selected areas which could hybridize with the greenback cutthroat trout are succeeding. The greenback cutthroat trout is not presently in danger of extinction throughout all or a significant portion of its range.

Section 4(a) of the Act states:

General.—(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:

- (1) The present or threatened destruction, modification, or curtailment of its habitat or range;
- (2) Overutilization for commercial, sporting, scientific, or educational purposes;
- (3) Disease or predation;
- (4) The inadequacy of existing regulatory mechanisms; or
- (5) Other natural or manmade factors affecting its continued existence.

This authority has been delegated to the Director.

#### SUMMARY OF FACTORS AFFECTING THE SPECIES

Specifically, we have evidence that conditions (1) and (5) above are pertinent to determination that the greenback cutthroat trout be classed as threatened.

(1) *The present or threatened destruction, modification, or curtailment of its habitat or range.* The greenback cutthroat trout is less tolerant of adverse conditions than are other trouts such as brown trout or rainbow trout. Optimum conditions of oxygen, temperature, water purity, etc., from the greenback cutthroat trout appear to be more stringent than for other trouts. The original distribution of the greenback cutthroat trout was the headwaters of the South Platte and Arkansas River basins. Permanent populations were restricted to the mountains and foothills because the warm, turbid conditions in

the South Platte and Arkansas Rivers in the plains did not provide suitable habitat. The extirpation of the greenback cutthroat trout proceeded very rapidly due to competition and hybridization with introduced trouts and loss and degradation of habitat from mining, logging, grazing, and irrigation projects. By 1930, the greenback cutthroat trout in its pure form was commonly assumed to be extinct.

Protection of presently occupied habitat varies. Como Creek and Black Hollow Creek are on Roosevelt National Forest lands with the exception of a few hundred yards of the head of Como Creek, which is on the grounds of the Arctic and Alpine Research Institute of the University of Colorado. Bear Lake, Forest Canyon, Hidden Valley, and Caddis Lake are on lands of the Rocky Mountains National Park; Island Lake and the Boulder Watershed Lakes are on land owned by the City of Boulder. The headwaters of the Little South Platte River is on Roosevelt National Forest and Rocky Mountain National Park. South Huerfano Creek is on a private ranch surrounded by San Isabel National Forest and Florence Creek is on the Uintah and Ouray Indian Reservations. The habitats on public lands appear to be safe from degradation. Waters on private land either known to contain greenback cutthroat trout or in the historic range and possibly containing undiscovered populations continue to be threatened by habitat destruction due to logging, mining, grazing, or water development projects.

(5) *Other natural or manmade factors affecting its continued existence.* The greenback cutthroat trout is not likely to coexist successfully with other species of trout. The introduction of nonnative trout within the range of the greenback cutthroat trout presents the most serious threat to its continued existence. Hybridization usually occurs with other subspecies of cutthroat trout and with rainbow trout. Eastern brook trout do not hybridize with greenback cutthroat trout wherever the two species occur together. Introduction of nonnative trout into greenback cutthroat habitat by fishermen is a threat to the species, as is destruction of barrier dams.

In spite of the above problems, there is evidence that the greenback cutthroat trout would benefit from regulated taking by noncommercial fishing in some areas. Regulated fishing on streams and lakes which have reached their carrying capacity would be beneficial to the population and increases public support for further restoration projects on public lands.

The Director intends that finally adopted rules be as responsive as possible to the conservation of the greenback cutthroat trout; he therefore desires to obtain the comments and suggestions of the public, other concerned governmental agencies, and private interests on these proposed rules.

## DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[ 50 CFR Part 17 ]

### ENDANGERED AND THREATENED WILDLIFE AND PLANTS

#### Proposed Threatened Status for Greenback Cutthroat Trout

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rulemaking.

**SUMMARY:** The Service issues a proposed rulemaking pursuant to the Endangered Species Act of 1973, which would reclassify from Endangered status to Threatened status the greenback cutthroat trout (*Salmo clarki stomias*). Conservation efforts by State and Federal agencies on behalf of this species have restored it to the point where it is no longer endangered. Threats from hybridization and habitat alteration exist but are not serious enough to require an Endangered status; they do indicate, however, that the trout is Threatened. The greenback cutthroat trout occurs only in Colorado and this proposed rulemaking would permit the species to be taken in accordance with the laws of that State.

**DATES:** All comments and materials with regard to this proposed rulemaking received no later than December 27, 1977, will be considered.

**ADDRESSES:** Comments and materials concerning this proposed rulemaking should be sent to the Director (FWS/OES), U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

Comments and materials received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 1100, 1612 K Street NW., Washington, D.C. 20240.

**FOR FURTHER INFORMATION CONTACT:**

Final promulgation of these regulations will take into consideration the comments received by the Director. Such comments and additional information received may lead the Director to adopt final regulations that differ from this proposal.

#### EFFECT OF THE RULEMAKING

The effects of this determination and rulemaking include, but are not necessarily limited to, those discussed below.

Endangered species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all endangered species. All of these prohibitions and exceptions also apply to any threatened species unless a special rule pertaining to the threatened species has been published and indicates otherwise. In the case of the greenback cutthroat, a special regulation has been proposed which would allow "take" of the species in accordance with State laws.

This proposed rulemaking, if finalized, would not change the eligibility of the greenback cutthroat trout for the protection provided by section 7 of the Act. That section reads as follows:

#### INTERAGENCY COOPERATION

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

Although no Critical Habitat has yet been determined for this species, the other provisions of section 7 are applicable.

Pursuant to section 4(b) of the Act, the Director will notify the Governor of Colorado, with respect to this proposal and request the comments and recommendations before making final determinations.

#### PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted will be as accurate and effective as possible in the conservation of any Endangered or Threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interest, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat (or lack thereof) to the greenback cutthroat trout;

(2) The location of and reasons why any habitat of the greenback cutthroat trout should or should not be determined to be Critical Habitat as provided for by section 7 of the Act;

(3) Additional information concerning the range and distribution of the greenback cutthroat trout.

Final promulgation of the regulations on the greenback cutthroat trout will

take into consideration the comments and any additional information received by the Director and such communications may lead him to adopt final regulations that differ from this proposal.

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service Office of Endangered Species, 1612 Street NW., Washington, D.C. 20240, and may be examined during regular business hours or can be obtained by mail. Determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

This proposed rulemaking is issued under the authority contained in the Endangered Species Act of 1973 (U.S.C. 1531-1543; 87 Stat. 884), and the primary authors are Sandy Hamilton and Dr. James D. Williams, Office of Endangered Species (202-343-7814).

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

It is proposed to amend § 17.11 by adding in alphabetical order the following to the list of animals:

#### § 17.11 Endangered and threatened wildlife.

Species			Range				
Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered	Status	When listed	Special rules
Fishes: Trout, greenback cutthroat.	<i>Salmo clarki stomaia</i> .	NA	U.S.A. (Colorado)	Entire	T		17.44

#### § 17.44 [Amended]

Section 17.44 is amended by adding a new § (f) as follows:

(f) Greenback cutthroat trout (*Salmo clarki stomaia*).

(1) All provisions of § 17.31 apply to this species, except that it may be taken in accordance with applicable State law.

(2) Any violation of State law will also be a violation of the Act.

NOTE.—The Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 20, 1977.

LYNN A. GREENWALT,  
Director, Fish and Wildlife Service.

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